

CHAPTER 25:27
ZIMBABWE COUNCIL FOR HIGHER EDUCATION ACT

Act 1/2006

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AN ACT to establish the Zimbabwe Council for Higher Education to register and accredit institutions of higher education; to repeal the National Council for Higher Education Act [*Chapter 25:08*]; and to provide for matters connected therewith or incidental thereto.

[Date of commencement :]

PART I

PRELIMINARY

1 Short title and date of commencement

(1) This Act may be cited as the Zimbabwe Council for Higher Education Act, [*Chapter 25:27*].

(2) This Act shall come into operation on a date to be fixed by the President by statutory instrument.

2 Interpretation

In this Act—

“accreditation” means the process of recognition of an institution of higher education’s programmes in accordance with section 18;

“accreditation certificate” means a certificate issued in terms of section 18;

“chairperson” means the chairperson of the Council appointed in terms of section 7(1)(a);

“Chief Executive Officer” means the Chief Executive Officer of the Council appointed in terms of section 9(1)(a);

“co-opted member” refers to a member co-opted to the Council in terms of section 7(1)(g);

“Council” means the Zimbabwe Council for Higher Education;

“foreign institution of higher education” means an institution whose head office is located outside Zimbabwe;

“higher education” means education provided by institutions of higher education;

“institution of higher education” or “institution” means—

(a) a technical or polytechnic college offering degrees; or

(b) a public or private university or university college and its associate or affiliate institutions, or

(c) an arm of a foreign institution of higher education that awards degrees;

“institutional quality assurance standards” and “institutional quality assurance system” means the standards and system referred to in section 6(d);

“member” means any member of Council including the chairperson and the Chief Executive Officer of the Council;

“Minister” means the Minister of Higher and Tertiary Education or any other Minister to whom the President may, from time to time assign the administration of this Act;

“National Qualification Framework Register” means the register referred to in paragraph 7 of the Second Schedule;

“private institution” means an institution of higher education including a university or university college that is not established by the State;

“provisional registration certificate” means a certificate issued in terms of section 11;

“public institution” means an institution including a university or university college established by the State;

“university college” means an institution of higher education established in terms of this Act, which provides teaching up to degree standard and which is affiliated to a university.

PART II

ESTABLISHMENT OF THE ZIMBABWE COUNCIL FOR HIGHER EDUCATION

3 Establishment of Council

There is hereby established a council to be known as the Zimbabwe Council for Higher Education which shall be a body corporate, capable of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as a body corporate may by law perform.

4 Seal of Council

(1) The seal of the Council shall be of such design as may be determined by Council and shall be kept in the custody of the Chief Executive Officer.

(2) The affixing of the seal shall be authenticated by the chairperson, vice-chairperson or any other person authorised by a resolution of the Council.

5 Objects and powers of Council

(1) The objects of the Council shall be to promote and co-ordinate education provided by institutions of higher education and to act as a regulator in the determination and maintenance of standards of teaching, examinations, academic qualifications and research in institutions of higher education.

(2) For the better exercise of its objects, the Council shall have powers, subject to this Act, to do or cause to be done, either by itself or through its agents all or any of the things specified in the First Schedule, either absolutely or conditionally or either solely or jointly with others.

6 Functions of Council

Without prejudice to the generality of section 5, the functions of the Council shall be—

- (a) to advise the Minister on all higher education matters; and
- (b) to develop and recommend policy on higher education including the establishment of public institutions and advise the Minister accordingly; and
- (c) to accredit institutions of higher education; and
- (d) to design and recommend an institutional quality assurance system for higher education, that is, a system whereby the courses, programmes and degrees offered by institutions are evaluated on a regular and objective basis, and to recommend to the Minister institutional quality assurance standards for—
 - (i) the establishment, standardisation and accreditation of institutions of higher education including standards of the physical plant and equipment; and
 - (ii) the preparation and amendment of university charters and statutes; and
 - (iii) the development of curricula; and
 - (iv) the standards of libraries; and
 - (v) the safety standards of laboratories and workshops; and
 - (vi) student transfer between programmes and institutions of higher education;and
- (e) to advise on the shape and size of the higher education system; and
- (f) to advise on the budgeting and funding arrangements for higher education for public institutions; and
- (g) to assist institutions of higher education in the training of high calibre staff; and
- (h) to promote equity in access to higher education through the provision of student assistance programmes; and
- (i) to promote international co-operation and facilitate exchanges in higher education; and
- (j) to perform any other function that the Minister may deem necessary.

7 Membership of Council

(1) The Council shall consist of the following members—

- (a) a chairperson appointed by the Minister; and
- (b) a vice-chairperson appointed by the Minister; and
- (c) nine members who are not members of the Public Service, of whom at least three shall be external to the higher education sector, appointed by the Minister in accordance with subsection (3); and
- (d) three Secretaries of Ministries that the Minister in consultation with the Ministers concerned, considers to be relevant to the development of higher education; and
- (e) three vice-chancellors appointed by the Minister to represent public and private institutions respectively; and
- (f) the Chief Executive Officer of the Council; and
- (g) three members of international repute co-opted by members appointed in terms of paragraphs (a), (c), (d) and (e).

(2) The appointment of the chairperson and members referred to in subsection (1)(c) shall be undertaken in such a manner as to ensure in so far as is practically possible, that—

- (a) the functions of the Council, in terms of this Act, are discharged according to the highest professional standards;
- (b) the membership taken as a whole is broadly representative of the higher education system and related interests such as research development;
- (c) due attention is given to the representativity of the Council on such relevant grounds as gender, ethnicity, religion, arts and sciences.

(3) For the purposes of subsection (1)(c), the Minister shall, by notice in the *Gazette* and by advertisement in any other media he or she deems fit, invite nominations for the members of the Council concerned from the public and from national organisations which the Minister considers to represent—

- (a) students, academic employees and non-academic employees in institutions of higher education; and
- (b) vice-chancellors of State universities and private universities; and
- (c) the business community and labour; and
- (d) any statutory body established to regulate any profession or calling; and
- (e) private voluntary organisations registered under the Private Voluntary Organisations Act [Chapter 17:05].

(4) The Minister shall cause the names of members of the Council to be published by notice in the *Gazette*.

(5) The Second Schedule shall apply to the terms and conditions of office, qualifications, filling of vacancies of members of Council and the procedure to be followed by Council at its meetings.

(6) If members of the public or any organisation referred to in subsection (3) fails to submit a list of nominees for appointment to the Council within thirty days of being invited to do so by the Minister, the Minister may appoint any person to represent members of the public or organisation concerned, and the person so appointed shall hold office as a member in all respects as if he or she had been duly nominated and appointed in terms of subsection (3).

8 Responsibilities of the Minister

(1) The Minister shall refer all proposals for legislation on higher education, including Bills for new Acts and Bills to amend existing Acts, to the Council for advice.

(2) The Minister shall give due consideration to the advice given by the Council in terms of subsection (1).

(3) The Minister may act without the advice of the Council if—

- (a) the matter is urgent; or
- (b) the Council has failed to provide the advice within a reasonable time.

9 The Secretariat

(1) There shall be a Secretariat of the Council consisting of—

- (a) the Chief Executive Officer appointed by the Minister subject to such directions as the President may give him or her; and
- (b) one or more Deputy Chief Executive Officers appointed by the Council;
- (c) such other staff of the Secretariat as the Council may require from time to time in order to carry out its functions.

(2) The Chief Executive Officer shall be appointed on such terms and conditions fixed by the Minister, subject to any directions the President may give him or her.

(3) No person shall be appointed as Chief Executive Officer unless he or she—

- (a) is a holder of a PhD or in the opinion of the Minister, a distinguished scholar;
- (b) has at least ten years experience as an academic employee or administrator in the field of higher education;
- (c) has such other qualifications and experience as the Council may determine.

(4) The Chief Executive Officer shall, subject to such directions on matters of policy as the Council may give, be responsible for—

- (a) the general administration and supervision of the Council's staff and its operations; and
- (b) maintaining the efficiency and reputation of the Council; and
- (c) ensuring that the functions of the Council as set out in section 6 are carried out; and
- (d) the recruitment and retention of staff necessary for the proper discharge of the functions of the Council on such terms and conditions as may be determined by the Council.

(5) The Chief Executive Officer shall serve as the Secretary of the Council.

PART III

REGISTRATION OF PRIVATE INSTITUTIONS OF HIGHER EDUCATION

10 Registration of private institutions

(1) No person shall operate a private institution or an arm of a foreign institution unless the private institution or arm is registered under this Act.

(2) Any person wishing to register a private institution or an arm of a foreign institution shall apply to the Council by submitting to the Chief Executive Officer the prescribed form accompanied by the draft charter of the institution and such other documentation and fee as may be prescribed.

(3) The Council shall, in terms of section 11, evaluate and verify the suitability of an application under this section and advise the Minister accordingly.

(4) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level nine or to imprisonment for a period not exceeding two years or both such fine and such imprisonment.

11 Provisional and final registration of private institutions

(1) Where the Council is satisfied that—

- (a) the financial and other resources required to enable the private institution to discharge its functions are available or are likely to be available; and
- (b) the applicant will achieve the aims and objectives for which the private institution is to be established; and
- (c) the private institution, when established, is likely to attain and maintain standards set out in accordance with Part V on a long-term basis; and
- (d) the establishment of the institution of higher education is in the interest of higher education in Zimbabwe;

it may provisionally register the applicant until such time as it is finally registered in terms of subsection (8) and issue to it a provisional registration certificate.

(2) Provisional registration authorises the private institution to—

- (a) set up a governing body for the proposed higher education institution; and
- (b) commence or continue to develop physical facilities; and
- (c) commence or continue to assemble academic resources; and
- (d) publicise the programmes of instruction expected to be offered at the institution.

(3) Provisional registration may be subject to such terms and conditions including the intake of students, as the Council may determine.

(4) The Council shall publish by notice in the *Gazette* and by advertisement in any other media it deems fit, the name and particulars of every private institution to which it has issued a provisional registration certificate.

(5) A provisional registration certificate shall be valid for twelve months from the date of issue.

(6) On or before the expiry of a provisional registration certificate, a private institution shall apply to the Council for final registration by submitting to the Chief Executive Officer the prescribed form accompanied by such documentation and fee as may be prescribed.

(7) If the Council, after considering the application and making such inspection of the institution as it deems fit, is satisfied that the provisionally registered private institution has fulfilled the terms and conditions under the provisional registration certificate, it may make recommendations to the President through the Minister that a charter be granted to the institution concerned.

(8) If, after receiving the recommendations, the President considers that the establishment of the private institution concerned will further the development of higher education in Zimbabwe, he or she may grant the institution a charter, in which event he or she shall publish a proclamation in a statutory instrument—

- (a) declaring the institution to be finally registered; and
- (b) setting forth the terms of the charter.

(9) Upon publication of a proclamation, the private institution concerned shall be established as a body corporate capable of suing and being sued in its corporate name and, subject to its charter and this Act, of performing all acts that a body corporate may by law perform.

(10) The Council shall keep a register of all private institutions at its offices which shall be available for inspection by members of the public during normal working hours, upon payment of the prescribed fee.

12 Provisions to be contained in charters of private institutions

Every charter of a private institution of higher education shall make provision for the following matters—

- (a) the name of the institution; and
- (b) the objects and functions of the institution; and
- (c) the membership and governance of the institution; and
- (d) the administration of the institution; and
- (e) the finances and business plan of the institution; and
- (f) the general academic regulations of the institution; and
- (g) the appointment, removal and conditions of service of members of staff; and
- (h) the admission, rights and discipline of students; and
- (i) the establishment of faculties, departments, institutes and centres;
- (j) the making of statutes, ordinances or rules for the regulation of the institution and its members; and

- (k) any other matter which is considered by the Minister to be necessary or desirable for the proper functioning of the institution.

13 Amendment of charters of private institutions

(1) If the governing body of a private institution of higher education wishes an amendment to be made to the charter of the institution, the governing body may apply to the Council, in writing and in such form as may be prescribed by the Council, for approval of the amendment.

(2) An application in terms of subsection (1) shall be accompanied by—

- (a) a draft of the proposed amendment; and
- (b) such information as may be prescribed or as the Council may require; and
- (c) the prescribed fee.

(3) The Council shall consider every application and after conducting such inquiry and making such investigation into the matter as it deems necessary, it shall submit the application, together with its advice thereon, to the Minister.

(4) If at any time the Council considers that it may be necessary or desirable for the charter of any private institution of higher education to be amended in order to—

- (a) enable the institution of higher education to carry out its functions more efficiently; or
- (b) further the interests of higher education in Zimbabwe generally;

the Council may conduct such inquiry and make such investigation in the matter as it deems necessary and may submit its advice to the Minister for the amendment of the charter:

Provided that, before submitting its advice to the Minister, the Council shall afford the governing body of the institution concerned an opportunity to make representations in the matter and shall forward any representations made by the governing body to the Minister together with its advice in writing.

(5) The Minister shall submit to the President the application, advice of the Council and representations received by him or her in terms of this section, together with any recommendations that he or she may wish to make in the matter:

Provided that, before submitting any such advice, representations and recommendations to the President, the Minister may require the Council to conduct such further inquiry or to make such further investigation into the matter as he or she may specify.

(6) If after receiving an application or recommendation in terms of this section for the amendment of a charter, the President is satisfied that the amendment—

- (a) will enable the institution of higher education concerned to carry out its functions more efficiently; or
- (b) will be in the interests of higher education in Zimbabwe generally; he or she may, by proclamation in a statutory instrument, amend the charter.

14 Revocation of charters of private institutions

(1) If at any time the Council is satisfied that a private institution of higher education—

- (a) has failed to carry out its object; or
- (b) has breached its charter in a material respect; or
- (c) is not carrying out its functions in a proper manner;

and that it is in the interest of higher education in Zimbabwe generally for the charter of the institution of higher education concerned to be revoked, the Council may advise the Minister that the charter be revoked:

Provided that, before submitting its advice to the Minister, the Council shall afford the governing body of the institution of higher education concerned an opportunity to make representations in the matter and shall forward any such representations made by the governing body to the Minister together with its advice.

(2) The Minister shall submit to the President any advice and representations received by him or her together with any recommendation that the Minister may wish to make in the matter:

Provided that, before submitting such advice, representations and recommendations to the President, the Minister may require the Council to conduct such further inquiry or make such further investigation into the matter as he or she may specify.

(3) If, after receiving a recommendation in terms of this section for the revocation of a charter, the President is satisfied that it is in the interests of higher education in Zimbabwe generally for the charter of the institution of higher education to be revoked, the President may, by proclamation in a statutory instrument, revoke the charter with effect from such date as he or she may specify in the proclamation.

(4) With effect from the date specified in the proclamation in terms of subsection (3), the institution of higher education concerned shall cease to exist:

Provided that the revocation of its charter shall not affect the validity of any certificate, diplomas, degrees or other academic qualifications conferred or awarded by the institution of higher education concerned before that date.

(5) The Council may allow a private institution of higher education to merge with another similar institution if that is considered to be the best way of making the institution viable.

PART IV

PUBLIC INSTITUTIONS OF HIGHER EDUCATION

15 Establishment of public institutions

The Council may advise the Minister, either at his or her request or on its own initiative, on the establishment of a public institution.

16 Declaration of institutions of higher education

The Minister may, with the advice of the Council and by notice in the *Gazette*, declare any—

- (a) government educational institution operating under the Education Act [*Chapter 25:04*] or to the Manpower Development Act [*Chapter 28:02*]; or
- (b) statutory body;

offering degrees as to be an institution of higher education.

17 Closure or merger of public institutions of higher education

(1) If at any time the Council is satisfied that a public institution of higher education has failed to discharge its functions in terms of the enactment under which it was established, and that it is in the interest of higher education in Zimbabwe generally for the institution concerned to be merged or to be closed, the Council may recommend to the Minister any one or more of the following—

- (a) a merger of the institution with any other institution; or
- (b) the closure of the institution; or
- (c) the repeal of the enactment under which the institution was established:

Provided that, before submitting its advice to the Minister, the Council shall afford the governing body of the institution of concerned an opportunity to make representations in the matter and shall forward any such representations to the Minister together with its recommendations.

(2) The Minister shall submit to the President any recommendations and representations received by him or her in terms of this section, together with any recommendations that he or she may wish to make in the matter:

Provided that, before submitting any such recommendations or representations to the President, the Minister may require the Council to conduct such further inquiry or make such further investigation into the matter as he or she may specify.

(3) If the President is satisfied that it is in the interests of higher education in Zimbabwe generally for the institution of higher education to merge or to be closed, the President may signify in writing his or her approval of the merger or closure of the institution specifying the date from which the institution of higher education shall merge or cease to operate.

Provided that the merger or closure of the institution shall not affect the validity of any certificate, diplomas, degrees or other academic qualifications conferred or awarded by the institution of higher education concerned before that date.

PART V

INSTITUTIONAL STANDARDS AND ACCREDITATION

18 Publication of Institutional quality assurance standards and evaluation of institutions

(1) The Minister may, on the recommendation of the Council, prescribe the institutional quality assurance standards that will govern the performance, operations and general conduct of all institutions of higher education.

(2) The Council shall evaluate the performance of institutions regularly in the light of the institutional quality assurance standards prescribed in terms of subsection (1) and accredit the institutions.

(3) After the evaluation in terms of subsection (2), the Council shall issue or refuse to issue an accreditation certificate to the institution.

(4) The Council shall publish the results of the accreditation process carried out in terms of subsection (2).

(5) After the completion of the evaluation process, the Council shall indicate in writing the specific steps to be taken by the institution concerned towards the attainment of the standards referred to in subsection (1).

19 Basis of accreditation

(1) An institution of higher education shall be issued with a certificate of accreditation if it demonstrates the achievement of acceptable standards in terms of physical, human, financial and material resources, management and operational procedures and an acceptable standard of academic life focusing on teaching, research and public and expert service.

(2) For each programme the accreditation process may take into account—

- (a) the academic qualifications for all members of staff employed by the higher education institution during the period assessed and those expected to be employed by the higher education institution;
- (b) the total number of students that have been enrolled in each programme of instruction offered at the institution of higher education and the standards attained by those that have graduated during the period assessed;
- (c) Information and Communication Technology infrastructure and provision for training;
- (d) the size and quality of the library and equipment, which have been developed;
- (e) the financial resources that are available for the exclusive use by the institution of higher education, certified by its auditors;
- (f) the physical facilities including land that are available for the exclusive use by the institution of higher education concerned.

20 Effect of accreditation

The qualifications awarded in respect of programmes of instruction offered by an accredited institution of higher education shall be recognised as comparable and of equivalent merit to similar qualification awarded in respect of programmes offered by all other accredited institutions in Zimbabwe.

21 Reports of institutions to Council

- (1) Every institution of higher education shall prepare and submit to the Council—
 - (a) an annual report of its activities within six months after the 31st December each year; and
 - (b) a detailed assessment at such intervals (not more frequently than four months at a time) as the Council may determine, of the steps it has taken towards the achievement of the aims and objectives for which it was established.

(2) The Council shall analyse all reports submitted pursuant to subsection (1) and may make such comments or give such advice thereon for action by the institution of higher education concerned.

(3) If an institution has failed to submit its report within the stipulated period, the Council may serve upon the institution an order—

- (a) requiring the institution to submit the report; and
- (b) stipulating the period within which the report should be submitted;

and notice of the order shall be published by the Council in such manner as it considers appropriate to draw the attention of the persons affected or likely to be affected by the order.

(4) An order served in terms of subsection (3) may specify a penalty for each day that the institution subjected to the order is in default of compliance with the order, not exceeding level five.

(5) The Council may institute civil proceedings for specific performance or the recovery of any penalty imposed in terms of subsection (4) against the institution concerned.

(6) A judgement given by a court in terms of subsection (5) shall have the same force and effect and may be executed in the same manner as if the judgement had been given in a civil action instituted in the court.

PART VI

FINANCIAL PROVISIONS

22 Funds of Council

The funds of the Council shall consist of—

- (a) any moneys that may be payable to the Council from moneys appropriated for the purpose by Act of Parliament;
- (b) any donations, grants, bequests or loans made to the Council with the consent of the Minister; and
- (c) registration fees received in terms of section 10;
- (d) any civil penalties collected in terms of section 21;
- (e) any other moneys that may accrue to the Council whether in terms of this Act or otherwise.

23 Investment of monies not immediately required by Council

Any funds of the Council not immediately required by the Council may be invested in such a manner as the Council in consultation with the Minister, may approve.

24 Financial year

The financial year of the Council shall be a period of twelve months ending on the 31st December in each year.

25 Accounts of Council

(1) The Council shall ensure that proper accounts and other records relating to such accounts are kept in respect of all the Council activities, funds and property, including such particular accounts of the Minister may direct.

(2) Within four months after the end of each financial year, the Council shall prepare and submit to the Minister a statement of accounts in respect of their financial year or in respect of such other period as the Minister may direct.

26 Audit of Council accounts

(1) The accounts of the Council shall be audited by the Comptroller and Auditor General, who for that purpose shall have the functions conferred upon him or her by sections 8 and 9 of the Audit and Exchequer Act [*Chapter 22:03*], as though the assets of the Council were public moneys and the members of the Council and employees and agents of the Council were officers as defined in that Act.

(2) Any member of the Council or employee or agent of the Council who—

- (a) fails or refuses to provide the Comptroller and Auditor-General with any explanation or information required by him or her for the purpose of an audit in terms of subsection (1); or
- (b) hinders or obstructs the Comptroller and Auditor General in the conduct of an audit in terms of subsection (1);

shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(3) Notwithstanding subsection (1) the Comptroller and Auditor General may appoint a suitable person to audit the accounts of the Council, and if he or she does so—

- (a) subsections (1) and (2) shall apply in respect of the person so appointed as if he or she were the Comptroller and Auditor General; and
- (b) any expenses incurred by the person so appointed in carrying out his or her audit shall be met from the Funds of the Council.

27 Annual report

(1) The Council shall within six months after the financial year or such longer period as the Minister may approve, submit to the Minister a comprehensive report on the operations of the Council during that year, together with the auditor's report and the audited accounts.

(2) The Minister shall lay the annual report before Parliament on one of the fourteen days on which Parliament next sits after the report is received by him or her.

PART VII

GENERAL

28 Immunity

No action, suit or other proceedings shall lie against the Council or a member of Council or a member of the staff of the Council acting in the ordinary course of his or her employment in relation to any action taken in good faith by the Council:

Provided that this section shall not be construed so as to prevent any person from recovering compensation for any loss or damage sustained by him or her which was caused by negligence or fraud.

29 Repeal of Cap. 25:08 and savings

(1) The National Council for Higher Education Act [*Chapter 25:08*] is repealed.

(2) Any charters, regulations, rules, by-laws, orders or awards which, immediately before the fixed date, were in force under the repealed Act shall remain in force as if they had been made or granted under this Act.

(3) Any matter or thing which was lawfully made, done, or commenced under the repealed Act and which immediately before the fixed, had effect or was capable of acquiring effect shall, subject to this Act, continue to have effect or to be capable of acquiring force, as the case may be and shall be deemed to have been made, done, or commenced under this Act.

30 Regulations

(1) The Minister after consultation with the Council, may make regulations prescribing all matters which under this Act are required or permitted to be prescribed or which, in his or her opinion are necessary or convenient to be prescribed for the better carrying out of the objects and purposes of this Act, or to give force and effect to the provisions of this Act.

(2) Regulations may provide for—

- (a) the qualifications ordinarily required for any person to be appointed to the teaching staff of an institution of higher education, having regard to the branch of education in which he or she is expected to give instruction;
- (b) the minimum standards of instruction for the grant of any qualifications by an institution of higher education;
- (c) the maintenance of standards and the co-ordination of work or facilities in institutions of higher education;

- (d) matters in respect of which fees may be charged and advice on scales of fees which may be charged by public institutions of higher education;
- (e) the manner in which an inquiry may be conducted on an institution of higher education;
- (f) the manner of registration of institutions of higher education and the maintenance of the register; and
- (g) the manner of accreditation of programmes in institutions of higher education.

31 Transitional provisions

(1) Every institution of higher education which is in existence at the commencement of this Act shall be deemed to be duly registered with the Council.

(2) An institution of higher education shall be deemed to be in existence if it—

- (a) has been established by an Act by the Parliament; or
- (b) holds a charter granted by the President; or
- (c) is otherwise registered with the Ministry responsible for higher education.

(3) All institutions of higher education registered with the Council shall, no later than six months after the prescribed date, apply to the Council for accreditation.

(4) Every application submitted to the Council in terms of subsection (3) shall be in the prescribed form and manner.

FIRST SCHEDULE (Section 5(2))

POWERS OF COUNCIL

1. To do anything which this Act provides may or shall be done by the Council.
2. To purchase, take on lease or in exchange or otherwise acquire dwelling-houses for occupation by persons in the employ of the Council.
3. To purchase land and construct thereon dwelling-houses for occupation by persons in the employ of the Council.
4. To enter into such contracts as the Council considers necessary for the performance of its functions or discharge of its duties.
5. To insure with an insurer registered under the Insurance Act [*Chapter 24:07*] against any losses, damage, risks or liabilities which the Council may incur.
6. To determine the standardization, homogeneity, equivalence and recognition of qualifications.
7. To acquire movable and immovable property for the purposes of carrying out its functions.
8. To convene conferences, seminars, symposia and workshops on various aspects of higher education.
9. To establish a Higher Education Fund for the purpose of improving and promoting higher education through special grants for students, specific projects and assisting institutions of higher education with scholarships for training staff.
10. To require every institution of higher education to provide the Council with such information as the Council may deem necessary for the purposes of its functions.
11. Generally to do all such things as are incidental or conducive to the exercise of the functions or the performance of the duties of the Council or are incidental to the powers specified in this Schedule or which are calculated, directly or indirectly, to enhance the value of or to develop the operations, undertakings and property of the Council.

SECOND SCHEDULE (Section 7(5))

PROVISIONS APPLICABLE TO THE COUNCIL

Paragraph

1. Disqualifications for appointment as member.
2. Terms and conditions of office of members.
3. Vacation of office by appointed members.
4. Suspension of appointed members of council.
5. Filling of vacancies on Council.
6. Meetings and procedure of Council.
7. Committees of Council.
8. Remuneration and allowances of members of Council and committees.
9. Disclosure of interests by members of Council and committees.
10. Minutes of proceedings of Council and committees.
11. Validity of decision and acts of Council and committees.

Disqualifications for appointment as member

- 1.(1) Subject to this Act, a person shall not be qualified for appointment as a member if—

- (a) he or she has, in terms of a law in force in any country—
 - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated therefrom; or
 - (ii) made an assignment or composition with his or her creditors which has not been rescinded or set aside;

or

- (b) he or she has been convicted in Zimbabwe or in any other country of any offence involving dishonesty or any other offence for which a term of imprisonment without the option of a fine, whether or not any portion of that sentence has been suspended has been imposed, or
- (c) he or she is a member of Parliament

(2) A person shall not be qualified for appointment as a member, nor shall he or she hold office as a member, if he or she is a member of two or more other statutory bodies.

(3) For the purposes of subparagraph (2)—

- (a) a person who is appointed to a council, board or other authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body shall be regarded as a member of that statutory body;
- (b) “statutory body” means—
 - (i) any commission established by the Constitution; or
 - (ii) any body corporate established directly by or under an Act for special purposes specified in that Act, the membership of which consists wholly or mainly of persons appointed by the President, Vice-President, a Minister or any other statutory body or by a Commission established by the Constitution.

Terms and conditions of office of members

2.(1) An appointed member of the Council shall hold office for such period, not exceeding three years, as the Minister may fix at the time of his or her appointment.

(2) On the expiry of the period for which an appointed member of the Council has been appointed, he or she shall continue to hold office until he or she has been re-appointed or his or her successor has been appointed:

Provided that a member shall not continue to hold office in terms of this subsection for more than six months.

(3) A person who ceases to be a member of the Council shall be eligible for re appointment.

(4) Members of the Council shall hold office on such conditions as the Minister may fix.

Vacation of office by appointed members

3.(1) An appointed member of the Council shall vacate his or her office and his or her office shall become vacant—

- (a) one month after the date he or she gives notice in writing to the Minister of his or her intention to resign his or her office or after the expiry of such other period of notice as he or she and the Minister may agree; or
- (b) on the date he or she begins to serve a sentence of imprisonment, whether or not any portion has been suspended, imposed without the option of a fine—
 - (i) in Zimbabwe, in respect of an offence; or
 - (ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence;

or

- (c) if he or she becomes disqualified in terms of paragraph 1(1)(a), (b) or (c) or (2) to hold office as a member; or
- (d) if he or she is required in terms of subparagraph (2) or (3) to vacate his or her office as a member.

(2) The Minister may require an appointed member of the Council to vacate his or her office if the member—

- (a) has been guilty of conduct which renders him or her unsuitable to continue to hold office as a member; or
- (b) has failed to comply with any condition of his or her office fixed in terms of paragraph 2; or
- (c) has ceased to possess any qualification by reason of which he or she was appointed; or
- (d) is mentally or physically incapable of efficiently performing his or her duties as a member.

(3) The Minister, on the recommendation of the Council, may require an appointed member of the Council to vacate his or her office if the Minister is satisfied that the member has been absent without the consent of the chairperson of the Council from three consecutive meetings of the Council, of which he or she has been given at least seven days’ notice, and that there was no just cause for the member’s absence.

Suspension of appointed members of Council

4. The Minister may suspend from office an appointed member of the Council against whom criminal proceedings are instituted for an offence involving dishonesty and, whilst that member is so suspended, he or she shall not carry out any duties or be entitled to any remuneration or allowances as a member.

Filling of vacancies on Council

5. On the death of, or the vacation of office by, an appointed member, the Minister shall within three months, appoint a person to fill the vacancy.

Meetings and procedure of Council

6.(1) The Council shall hold its first meeting on a date and place fixed by the Minister, and thereafter shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedure as it thinks fit:

Provided that the Council shall meet at least four times in each financial year.

(2) The chairperson of the Council—

(a) may convene a special meeting of the Council at any time; and

(b) shall convene a special meeting of the Council on the written request of the Minister or not fewer than two members, which meeting shall be convened for a date not sooner than seven days and not later than thirty days after the chairperson's receipt of the request.

(3) Written notice of a special meeting convened in terms of subparagraph (2) shall be sent to each member not later than forty-eight hours before the meeting and shall specify the business for which the meeting has been convened.

(4) No business shall be discussed at a special meeting convened in terms of subparagraph (2) other than—

(a) such business as may be determined by the chairperson of the Council, where he or she convened the meeting in terms of subparagraph (2)(a); or

(b) the business specified in the request for the meeting, where the chairperson of the Council convened the meeting in terms of subparagraph (2)(b).

(5) The chairperson of the Council or, in his or her absence, the vice-chairperson shall preside at all meetings of the Council:

Provided that, if the chairperson and vice-chairperson are both absent from any meeting of the Council, the members present may elect one of their number to preside at that meeting as chairperson.

(6) Ten members shall form a quorum at any meeting of the Council.

(7) Subject to subparagraph (12), anything authorised or required to be done by the Council may be decided by a majority vote at any meeting of the Council at which a quorum is present.

(8) With the Council's approval, the chairperson of the Council may invite any person to attend a meeting of the Council or a committee, where the chairperson considers that the person has special knowledge or experience in any matter to be considered by the Council or the committee, as the case may be, at that meeting.

(9) A person invited to attend a meeting of the Council or of a committee in terms of subparagraph (8) may take part in the proceedings of the Council or the committee as if he or she were a member thereof, but shall not have a vote on any question before the Council or committee, as the case may be.

(10) Subject to subparagraph (11) and to paragraph 9, at meetings of the Council each member present shall have one vote on any question before the Council and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to a deliberative vote.

(11) The Chief Executive Officer shall not take part in the discussion of, and shall not vote on, any question before the Council which involves his or her tenure of office or conditions of service.

(12) Any proposal circulated among all members and agreed to in writing by a majority of them shall have the same effect as a resolution passed by a duly constituted meeting of the Council and shall be incorporated into the minutes of the next succeeding meeting of the Council:

Provided that, if a member requires that such a proposal be placed before a meeting of the Council, this subparagraph shall not apply to the proposal.

Committees of Council

7.(1) For the better exercise of its functions, the Council may establish one or more committees in which the Council may vest such of its functions as it considers appropriate:

Provided that the vesting of any function in a committee shall not divest the Council of that function, and the Council may amend or rescind any decision of the committee in the exercise of that function.

(2) On the establishment of a committee in terms of subparagraph (1), the Council—

(a) shall appoint at least one member of the Council as a member of the committee, and that member or one of those members, as the case may be, shall be chairperson of the committee; and

- (b) may appoint as members of the committee, on such terms and conditions as the Council may fix, co-opted persons who are not members of the Council.
- (3) Meetings of a committee may be convened at any time and at any place by the chairperson of the Council or the chairperson of the committee.
- (4) Subject to paragraphs 10 and 11, the procedure to be followed at any meeting of a committee and the quorum at any such meeting shall be as fixed by the Council.
- (5) The Council shall appoint the following committees—
- (a) the Executive Committee of Council which shall be the principal committee of the Council and consisting of—
- (i) the chairperson and vice-chairperson of the Council, who shall be chairperson and vice-chairperson respectively,
 - (ii) the Chief Executive Officer of Council;
 - (iii) the chairperson of the Higher Education Quality Assurance and Accreditation Committee; and
 - (iv) one member appointed by Council from among the nine members appointed into Council in accordance with section 7(1)(c).
- (b) the Higher Education Quality Assurance and Accreditation Committee whose chairperson shall be a Vice-Chancellor or former Vice-Chancellor shall—
- (i) promote institutional quality assurance standards in higher education
 - (ii) audit the institutional quality assurance systems in higher education;
 - (iii) pay special attention to quality assurance as it relates to the relevance of programmes offered by institutions of higher education, financial resources available to the institutions, the calibre of staff, physical infrastructure, equipment, strategic leadership, length and depth of programmes, examination standards, management efficiency, peer evaluation and academic audits;
 - (iv) develop and implement an accreditation and evaluation framework for learning programmes leading to the National Qualifications Framework Register of qualifications offered by institutions of higher education in Zimbabwe; and
 - (v) recommend to the Council the accreditation of institutions of higher education and their programmes;
 - (vi) advise Council on proposed higher education legislation;
 - (vii) prepare and table for eventual adoption by the Council, all advice to the Minister regarding charters for private institutions of higher education and the registration of such institutions.
- (c) the Higher Education Shape and Size Committee which shall advise Council—
- (i) on the overall capacity in terms of the number of institutions and enrolments in the higher education system;
 - (ii) on the size of individual institutions of higher education;
 - (iii) on optimal enrolments in individual institutions of higher education, their programmes and classes;
 - (iv) in relation to the need to develop high and varied levels of intellectual and conceptual knowledge, skills and attitudes to meet the requirements of a developing country;
 - (v) on the development of professionals in different disciplines through different kinds of educational and pedagogic modes;
 - (vi) on equity and access to higher education;
- (d) the Higher Education Funding and Financing Committee which shall—
- (i) administer the Higher Education Fund and monitor the use of grants made by the Higher Education Fund to ensure adherence to the purposes for which the funds are disbursed;
 - (ii) provide Council with relevant information to advise the Minister on all aspects of funding and financing in public institutions of higher education including advice on policies, principles, formulae and criteria governing the allocation of public funds to institutions of higher education and to review periodically such policies, principles, formulae and criteria;
 - (iii) provide Council with relevant information to advise the Minister on the mechanisms of allocating public funds for student financial assistance, and for financing of private institutions;
 - (iv) provide a basis for the Council to advise the Minister on funding for- the development of physical plant in public institutions of higher education;
 - (v) advise on levels of remuneration of staff in institutions of higher education;
 - (vi) assist in negotiations between government and institutions of higher education on issues pertaining to the provision of funds and the remuneration of staff in public institutions of higher education.

Remuneration and allowances of members of Council and committees

8. Every member of the Council or of a committee shall be paid—

- (a) such remuneration, if any; and
- (b) such allowances to meet his or her reasonable expenses incurred in connection with the business of the Council or the committee, as the case may be;

as the Council may fix with the approval of the Minister.

Disclosure of interests by members of Council and committees

9.(1) In this section—

“associate”, in relation to a member, means—

- (a) a person who is related to the member by blood or by marriage; or
- (b) a partner, employee or employer of the member; or
- (c) any body of persons, whether corporate or unincorporated, of which the member is a director or in which the member holds any office or position other than that of an auditor or in which the member holds a controlling interest.

(2) A member shall take no part in the consideration or discussion of, or vote on, any question before the Council which relates to any matter in which he or she or his or her associate has an interest.

(3) Nothing in this section shall be taken to prevent members of the Council or of a committee of the Council from taking part in the consideration of, or voting on, any matter that affects members generally in their, capacity as persons liable to pay revenue.

(4) Any person who contravenes subparagraph (2) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

Minutes of proceedings of Council and committees

10.(1) The Council shall cause minutes of all proceedings of and decisions taken at every meeting of the Council and of every committee to be entered in books kept for the purpose.

(2) Any minutes referred to in subparagraph (1) which purport to be signed by the person presiding at the meeting to which the minute relate or by the person presiding at the next following meeting of the Council or the committee concerned, as the case may be, shall be accepted for all purposes as *prima facie* evidence of the proceedings and decisions taken at the meeting concerned.

Validity of decisions and acts of Council and committees

11. No decision or act of the Council or a committee or act that is authorised by the Council or a committee shall be invalid solely because there was a vacancy in the membership of the Council or the committee or because a disqualified person purported to act as a member of the Council or the committee, as the case may be, at the time the decision was taken or the act was done or authorised.